



Thursday, August 27, 2015

CALL TO ORDER

Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 p.m. in the Council Chambers of the Bloomington Civic Plaza.

COMMISSIONERS PRESENT: Nordstrom, Willette, Batterson, Fischer, Bennett, Goodrum

COMMISSIONERS ABSENT: Spiess

STAFF PRESENT: Markegard, Pease, Centinario, O'Day

Chairperson Nordstrom led the attendees in the reciting of *The Pledge of Allegiance*.

ITEM 1

6:03 p.m.

CASE:	10000E-15
APPLICANT:	Sharepoint Credit Union (user)
LOCATION:	City Wide
REQUESTS:	Privately initiated City Code amendment to define and add "Financial Institution – Limited" as a conditional accessory use in the B-1 Zoning District

PUBLIC HEARING DISCUSSION:

Pease mentioned that Sharepoint Credit Union intends to purchase and upgrade the 25 year old office building located at 5300 Hyland Greens Drive. Sharepoint will centralize their offices and occupy approximately two-thirds of the building. While most of their space will be office space, they also desire a retail type branch which is not an allowed use in the B-1 Zoning District. The applicant's proposal is to define "Financial Institution – Limited" as a conditional accessory use in the B-1 Zoning District. If the application is approved, Sharepoint Credit Union would apply for a Conditional Use Permit at a future date. Pease showed a photo of the current B-1 zones in Bloomington. Staff agrees that "Financial Institution – Limited" is consistent with the neighborhood-oriented office zone. Staff is recommending approval.

The public hearing was closed via a motion.

Batterson is happy this building is being occupied and agreed the Code amendment is appropriate.

The item is anticipated to come before the City Council on September 28, 2015.

ACTIONS OF THE COMMISSION:

M/Willette, S/Bennett: To close the public hearing. Motion carried 6-0.

M/Batterson, S/Fischer: In Case 10000E-15, I move to recommend approval of an ordinance amendment to amend Section 19.03 defining "Financial Institution – Limited" in Section 21.209(d) to add "Financial Institution – Limited" as a conditional accessory use in the B-1 Zoning District.

Motion carried 6-0.

ITEM 2
6:08 p.m.

CASE:	8300A-15
APPLICANT:	Reserve Company LLC (owner) Max Guns and Ammo LLC (user)
LOCATION:	10750 Bloomington Ferry Road
REQUESTS:	Conditional Use Permit for a firearm dealer in an existing retail center

PUBLIC HEARING DISCUSSION:

Centinario gave a brief recap of the application, which was continued from a previous meeting. He showed an aerial photo of the existing retail center, as well as a photo of the tenant space. The regulations that apply to a firearm dealer include obtaining a Federal Firearm License, registering secondhand goods with the City of Bloomington, submitting a security plan to the Police Department and going through inspections with the Bureau of Alcohol, Tobacco and Firearm and the Police Department.

Markegard gave a recap of the previous July 23, 2015 Planning Commission meeting at which the Planning Commission continued the item to August 27, 2015 and requested staff to prepare a resolution of denial. Since the last hearing, staff has prepared a resolution of denial and has received additional correspondence from the public as well as from the applicant and the landowner's attorney. The 120 day Agency Action Timeline for this application is October 14, 2015. If action is not taken on the application October 14, 2015, the application would be automatically approved with no conditions. The options are either adopting a resolution of denial, which would require four affirmative votes, or adopt a resolution of approval. Under Robert's Rules of Order, approval could only occur if one of the four people who voted against approval on July 23, 2015 make a motion to reconsider. The appeal period lasts until 4:30 pm on September 1, 2015. If an appeal were received, the application would be heard by the City Council on October 5th, 2015 and that meeting would include public testimony. A tie-vote by the Planning Commission would create an automatic appeal to the City Council.

Bennett said she appreciated the additional input from the public. She voted to approve the application on July 23rd, 2015 because it met the findings. Finding 1a of the resolution of denial does not provide enough evidence for an incompatible use. Finding 1b does not provide enough evidence regarding decreased property values. Finding 2a regarding distance from the Police Department is not included in any ordinance. Therefore, she does not support the resolution of denial.

Fischer said he voted to request the resolution of denial at the last meeting. The lack of security plan and the proximity to the school and church are major concerns for him. The firearms store might affect the preexisting businesses in the area.

Batterson said he voted for supporting denial previously and still feels the same. His issues are site specific and based on location, as it is very close to a church and a residential neighborhood. His mind has not changed and he hopes the applicant moves the store elsewhere in Bloomington.

Willette said he voted to support denial because of safety concerns. People hold conceal-to-carry permits in Minnesota, and he wonders if something could happen. Security measures are not strict enough.

Goodrum said he previously voted to approve the application. He stated he had issues with safety and location, but will support the application due to his conclusion that it meets the required findings.

Nordstrom said he previously voted to support the application. The legal process guarantees that every application is treated fairly. But sometimes personal opinion gets in the way of the legal process. There are many concerns that stem from the applicant's incomplete security plan. Before the applicant obtains a Conditional Use Permit, review of a security plan by the Police Department is required. The vote is split and will likely be heard at City Council. He asked staff for input on a motion given the apparent 3-3 situation.

Markegard suggested the Commission first consider a motion for denial as the Planning Commission had requested a resolution of denial at its last meeting. If that motion results in a tie, the Commission could then ask whether any member who voted against the motion for approval at the last meeting wanted to reconsider that vote.

Nordstrom clarified for the public that the Commission has to have a majority that agrees in order to adopt a resolution of approval or denial.

Batterson said he will make a motion of denial.

Markegard clarified that the motion when it is made should reference the resolution of denial in the staff report, and if any of the language in that resolution is desired to be modified or added to, the motion should list those changes.

The commission identified no needed changes to the draft resolution.

After Batterson's motion to adopt the resolution of denial failed, the Chair asked if any of the members voting against the motion to approve the application at the last meeting were interested in reconsidering their vote. Commissioners Batterson, Fischer and Willette said they were not.

Because of the tie, it was announced that the item will automatically move forward to City Council, with an anticipated date of October 5, 2015.

ACTIONS OF THE COMMISSION:

M/Batterson, S/Fischer: In Case 8300A-15, not being able to make the required findings, I move to adopt the resolution of denial for a Conditional Use Permit for a firearms dealer at 10750 Bloomington Ferry Road as shown in the August 27, 2015 Planning Commission packet. Motion failed on a 3-3 tie vote.

ITEM 3
6:35 p.m.

CASE:	3400A-15
APPLICANT:	Verizon Wireless (user) Redemption Lutheran Church and School (owner)
LOCATION:	927 E Old Shakopee Road
REQUESTS:	Final site and building plans to construct a 65 foot Bell tower with screened Verizon antennas

PUBLIC HEARING DISCUSSION:

Markegard said Verizon has been redesigning their tower and is requesting a continuance to the October 22nd, 2015 Planning Commission meeting.

ACTIONS OF THE COMMISSION:

M/Bennett, S/Fischer: In Case 3400A-15, I move to continue the item to the October 22, 2015 Planning Commission meeting.
Motion carried 6-0.

ITEM 4
6:36 *p.m.*

APPLICANT:	City of Bloomington
REQUEST:	Annual Review of Planning Commission Rules of Procedure (Study Item)

DISCUSSION:

Nordstrom addressed past Rules of Procedure issues regarding obtaining a quorum at a meeting. Fischer agreed that moving the beginning of each term to July was a good idea.

Markegard reviewed the ex parte contacts and conflicts of interest sections of the Rules. The Commission's previously adopted ex parte contact rules are meant to keep discussion in the public record and to avoid any undue influence. If ex parte contacts do occur, those contacts should be disclosed prior to Planning Commission discussion of any given item. Conflicts of interest arise when a spouse or family member might directly or indirectly gain from a planning decision. In that case, Commissioners may discuss whether there is an actual or perceived conflict with the Planning Manager or City Attorney and the person must abstain from participating in that item and must leave the chambers during that item.

Markegard suggested changing the Rules regarding what happens when a tie vote is reached. Markegard suggested adding the underlined wording to the existing rules as follows: "When the Planning Commission is unable to form a majority to take final action or to recommend an action to the City Council, staff will forward the application to the City Council without a Planning Commission final action or recommendation. In such cases, the Planning Commission shall clearly identify what it considers to be important issues for City Council consideration, to be reflected in the minutes or synopsis of the meeting for the benefit of the Council." Markegard said this issue should also be addressed in the City Code in case of another instance of a tie vote.

Nordstrom was aware that there could have been a 3-3 vote. It would be beneficial to have a mechanism spelled out so that a future Chairman can reference that rule.

Willette asked if it is allowed for Commissioners to meet outside of meetings to discuss business or to meet without discussing business.

Markegard stated that any discussion of business between commissioners needs to take place at the open meetings and that Section 1.5 of the Rules says that a gathering of a quorum of commissioners for any official reason requires the meeting to be notified to the public.

Nordstrom suggested staff check with legal for an appropriate place to reference that rule in the Rules of Procedure.

M/Batterson, S/Fischer I move to approve changes to Section 1.8 regarding recommendations in the Robert's Rules of Procedure.

Motion carried 6-0.

ITEM 5
6:51 p.m.

APPLICANT:	City of Bloomington
REQUESTS:	Election of Planning Commission Officers (Study Item)

ACTIONS OF THE COMMISSION:

By secret ballot, the Commission elected officers for the next year as follows:

Chair: Craig Nordstrom
Vice Chair: Kelley Spiess

ITEM 6
6:55 p.m.

APPLICANT:	City of Bloomington
REQUEST:	Consider approval of draft Planning Commission meeting synopsis <ul style="list-style-type: none">• 5/7/15• 8/6/15

ACTIONS OF THE COMMISSION:

M/Willette, S/Bennett: I move to approve the synopsis of the 5/7/15 Planning Commission meeting as presented.
Motion carried 5-0.

M/Willete, S/Bennett: I move to approve the synopsis of the 8/6/15 Planning Commission meeting as presented.
Motion carried 4-0.

The meeting adjourned at 6:56 p.m.

Prepared By: EO **Reviewed By:** GM, LP, MC

Approved By Planning Commission: October 22, 2015